

# **How Legislation Is Brought to the House Floor: A Snapshot of Recent Parliamentary Practice in the 111<sup>th</sup> Congress (2009-2010)**

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## Summary

The House of Representatives has several different parliamentary procedures through which it can bring legislation to the chamber floor. Which of these will be used in a given situation depends on many factors, including the type of measure being considered, its cost, the amount of political or policy controversy surrounding it, and the degree to which Members want to debate it and propose amendments. This report provides a snapshot of the forms and origins of measures which, according to the Legislative Information System of the U.S. Congress (LIS), received action on the House floor in the 111<sup>th</sup> Congress (2009-2010) and the parliamentary procedures used to bring them up for initial House consideration.

In the 111<sup>th</sup> Congress, 1,946 pieces of legislation received floor action in the House of Representatives. Of these, 885 were bills or joint resolutions and 1,061 were simple or concurrent resolutions, a breakdown between lawmaking and non-lawmaking legislative forms of approximately 45% to 55%. Of these 1,946 measures, 1,796 originated in the House and 150 originated in the Senate.

During the same period, 78% of all measures receiving initial House floor action came before the chamber under the Suspension of the Rules procedure; 14% came to the floor as business “privileged” under House rules and precedents; 5% were raised by a special rule reported by the Committee on Rules and adopted by the House; and 2% came up by the unanimous consent of Members. One measure, representing a small fraction (less than 1%) of measures receiving House floor action in the 111<sup>th</sup> Congress, was processed through the parliamentary mechanism formerly contained in House Rule XXVIII, popularly known as the “Gephardt Rule.”

When only lawmaking forms of legislation (bills and joint resolutions) are counted, 86% of measures receiving initial House floor action in the 111<sup>th</sup> Congresses came before the chamber under the Suspension of the Rules procedure; 11% were raised by a special rule reported by the Committee on Rules and adopted by the House; and 2% came up by the unanimous consent of Members. Less than 1% of bills or joint resolutions received House floor action in the 111<sup>th</sup> Congress by virtue of being business “privileged” under House rules and precedents or through the provisions of the Gephardt Rule.

The party sponsorship of legislation receiving initial floor action in the 111<sup>th</sup> Congress varied based on the procedure used to raise the legislation on the chamber floor. Seventy-three percent of the measures considered under the Suspension of the Rules procedure were sponsored by majority party Members. All measures brought before the House under the terms of a special rule reported by the House Committee on Rules and adopted by the House were sponsored by majority party Members.

This report will be periodically updated to reflect legislative action taken in a full Congress.

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The House of Representatives has several different parliamentary procedures through which it can bring legislation to the chamber floor. Which will be used in a given situation depends on many factors, including the type of measure being considered, its cost, the amount of political or policy controversy surrounding it, and the degree to which Members want to debate it and propose amendments.

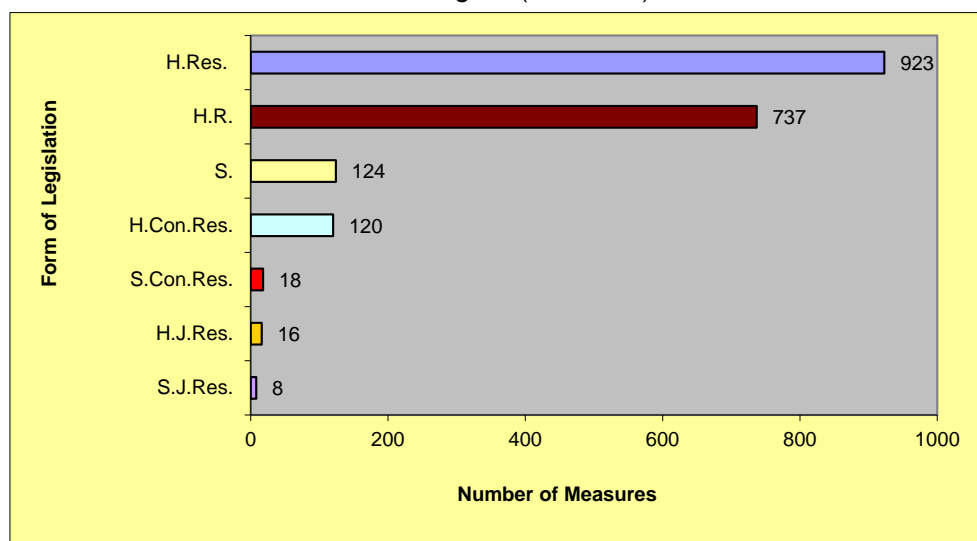
According to the Legislative Information System of the U.S. Congress (LIS), in the 111<sup>th</sup> Congress (2009-2010), 1,946 pieces of legislation received action. This report provides a statistical snapshot of the forms, origins, and party sponsorship of these measures, and of the parliamentary procedures used to bring them to the chamber floor during their initial consideration.

## Form of Measures

Legislation is introduced in the House or Senate in one of four forms: the bill (H.R. / S.); the joint resolution (H.J.Res. / S.J.Res.); the concurrent resolution (H.Con.Res. / S.Con.Res.); and the simple resolution (H.Res. / S.Res.). Generally speaking, bills and joint resolutions can become law, but simple and concurrent resolutions cannot; they are used instead for internal organizational or procedural matters, or to express the sentiment of one or both chambers.<sup>1</sup>

In the 111<sup>th</sup> Congress, 1,946 pieces of legislation received floor action in the House of Representatives. Of these, 885 were bills or joint resolutions and 1,061 were simple or concurrent resolutions, a breakdown between lawmaking and non-lawmaking legislative forms of approximately 45% to 55%, respectively.

**Figure I. Form of Legislation Receiving House Floor Action**  
111<sup>th</sup> Congress (2009-2010)



**Source:** CRS analysis of data from the Legislative Information System of the U.S. Congress (LIS).

<sup>1</sup> For more information on the forms and uses of legislation, see CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by Richard S. Beth. Also see CRS Report 98-825, *“Sense of” Resolutions and Provisions*, by Christopher M. Davis.

## Origin of Measures

Of the 1,946 measures receiving House floor action in the 111<sup>th</sup> Congress, 1,796 originated in the House and 150 originated in the Senate.

## Party Sponsorship of Measures

It is generally accepted that the House considers more legislation sponsored by majority party Members than measures introduced by minority party Members. This was born out in practice in the 111<sup>th</sup> Congress. As is reflected in **Table 1**, 76% of all measures receiving initial House floor action in the last Congress were sponsored by Members of the Democratic Party, which had a majority of seats in the House. When only lawmaking forms of legislation are considered, 81% of measures receiving House floor action in the 111<sup>th</sup> Congress were sponsored by Democrats, 19% by Republicans, and 1% by political independents.

**Table 1. Political Party Sponsorship of Measures Receiving House Floor Action:  
Sorted By Form of Measure**

111<sup>th</sup> Congress (2009-2010)

Form of Measure	Democratic Sponsor	Republican Sponsor	Independent Sponsor	Total
H.R.	587 (80%)	150 (20%)	-	737
S.	105 (85%)	14 (11%)	5 (4%)	124
H.J.Res.	15 (94%)	1 (6%)	-	16
S.J.Res.	7 (88%)	1 (13%)	0	8
H.Res.	666 (72%)	257 (28%)	-	923
H.Con.Res.	96 (80%)	24 (20%)	-	120
S.Con.Res.	12 (67%)	6 (33%)	0	18
TOTAL	1488 (76%)	453 (23%)	5 (.002%)	1946

**Source:** Legislative Information System of the U.S. Congress.

**Notes:** One House joint resolution, which was automatically engrossed and transmitted to the Senate under the procedures of the so-called Gephardt Rule (discussed below) was counted as a measure sponsored by Democrats although it technically had no sponsor. Percentages may not total 100% due to rounding. Table reflects initial House consideration of legislation.

The ratio of majority to minority party sponsorship of measures receiving initial House floor action in the 111<sup>th</sup> Congress varied widely based on the parliamentary procedure used to raise the legislation on the House floor. As is noted in **Table 2**, 73% of the measures considered under the Suspension of the Rules procedure were sponsored by Democrats, 27% by Republicans, and less than 1% by political independents. That measures introduced by Members of both parties were considered under Suspension is unsurprising in that (as is discussed below) Suspension of the Rules is the parliamentary procedure which the House generally uses to process non-controversial measures for which there is wide bipartisan support. Additionally, passage of a measure under the Suspension of the Rules procedure requires the votes of at least some minority party Members.

The ratio of party sponsorship on measures initially brought to the floor under a terms of a special rule reported by the House Committee on Rules and adopted by the House was far wider. Of the

103 measures CRS identified as being initially brought to the floor under the terms of a special rule in the 111<sup>th</sup> Congress, all were sponsored by majority party Members.

The breakdown in party sponsorship on measures initially raised on the House floor by unanimous consent was uneven, with majority party Members sponsoring three-quarters of the measures brought up in this manner.

**Table 2. Political Party Sponsorship of Measures Receiving House Floor Action:  
Sorted By Parliamentary Procedure Used to Consider Measure**

111<sup>th</sup> Congress (2009-2010)

Mode of Consideration	Democratic Sponsor	Republican Sponsor	Independent Sponsor	Total
Suspension of the Rules	1114 (73%)	407 (27%)	4 (.002%)	1525
Privileged Business	232 (86%)	37 (14%)	0	269
Special Rule	103 (100%)	0	0	103
Unanimous Consent	36 (75%)	11 (23%)	1 (2%)	48
Gephardt Rule	1 (100%)	0	0	1

**Source:** Legislative Information System of the U.S. Congress.

**Notes:** One House joint resolution, which was automatically engrossed and transmitted to the Senate under the procedures of the so-called Gephardt Rule (discussed below) was counted as a measure sponsored by Democrats although it technically had no sponsor. Percentages may not total 100 percent due to rounding. Table reflects initial House consideration of legislation.

## Floor Procedures Used in the 111<sup>th</sup> Congress

The following section documents the parliamentary mechanisms that were used by the House to bring legislation to the floor for initial consideration during the 111<sup>th</sup> Congress. In doing so, it does not make distinctions about the privileged status such business technically enjoys under House rules. Most appropriations measures, for example, are considered “privileged business” under clause 5 of House Rule XIII (as detailed in the section on “Privileged Business” below). As such, they do not need a special rule from the Rules Committee to be adopted for them to have floor access. In actual practice, however, in the 111<sup>th</sup> Congress, the House universally provided for the consideration of these measures by means of a special rule, which, in general, could also provide for debate to be structured, amendments to be regulated, and points of order against the bills to be waived. Thus, appropriations measures considered in the 111<sup>th</sup> Congress are counted in this analysis as being raised by special rule, notwithstanding their status as “privileged business.”

### Suspension of the Rules

In recent Congresses, most legislation has been brought up on the House floor by Suspension of the Rules, a parliamentary device authorized by clause 1 of House Rule XV, which waives the chamber’s standing rules to enable the House to act quickly on legislation that enjoys widespread, even if not necessarily unanimous, support. The main features of the Suspension of the Rules procedure include (1) a 40-minute limit on debate, (2) a prohibition against floor amendments and points of order, and (3) a two-thirds vote of Members present and voting for passage. The suspension procedure is in order in the House on the calendar days of Monday, Tuesday, and Wednesday, during the final six days of a congressional session, and at other times by unanimous

consent or special order.<sup>2</sup> In the 112<sup>th</sup> Congress (2011-2012), the House Republican leadership has announced additional policies related to their use of the Suspension of the Rules procedure which restrict the use of the procedure for certain “honorific” legislation, generally require measures considered under Suspension to have been available for three days prior to their consideration, and require the sponsor of the measure to be on the floor at the time of a measure’s consideration.<sup>3</sup>

In the 111<sup>th</sup> Congress, 1,525 measures, representing 78% of all legislation receiving House floor action, were initially brought up using the Suspension of the Rules procedure. This includes 760 bills or joint resolutions and 765 simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 86% of bills and joint resolutions receiving floor action in the 111<sup>th</sup> Congress came up by Suspension of the Rules. Ninety-two percent of measures brought up by Suspension of the Rules originated in the House. The remaining 8% were Senate measures.

## **Privileged Business**

House rules and precedents place certain types of legislation in a special “privileged” category, which gives measures of this kind the ability to be called up for consideration when the House is not considering another matter. Bills and resolutions falling into this category that saw floor action in the 111<sup>th</sup> Congress include the following:

- Order of Business Resolutions: Procedural resolutions reported by the House Committee on Rules affecting the “rules, joint rules, and the order of business of the House” are, themselves, privileged for consideration under clause 5 of House Rule XIII. Order of business resolutions are commonly known as “special rules,” and are discussed below in more detail.<sup>4</sup>
- Committee Assignment Resolutions: Under clause 5 of House Rule X and the precedents of the House, a resolution assigning Members to standing committees is privileged if offered by direction of the party caucus or conference involved.<sup>5</sup>
- Correcting Enrollments: Under clause 5 of House Rule XIII, resolutions reported by the Committee on House Administration correcting errors in the enrollment of a bill are privileged.<sup>6</sup>
- Providing for Adjournment: Under Article I, section 5, clause 4, of the Constitution, neither house can adjourn for more than three days without the consent of the other. Concurrent resolutions providing for such an adjournment of one or both chambers are called up as privileged.<sup>7</sup>
- Questions of the Privileges of the House: Under clause 2 of House Rule IX, resolutions raising a question of the privileges of the House, affecting “the rights of the House collectively, its safety, dignity, and the integrity of its proceedings,”

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<sup>2</sup> For more information on Suspension of the Rules, see CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

<sup>3</sup> House Majority Leader Eric Cantor, *Legislative Protocols for the 112<sup>th</sup> Congress*, Feb. 23, 2011. Available at <http://www.majorityleader.gov/protocols>.

<sup>4</sup> U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 109-157, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2007), §853. (Hereafter cited as “*House Manual*.”)

<sup>5</sup> *House Manual*, §757.

<sup>6</sup> *Ibid.*

<sup>7</sup> *House Manual*, §84.

are privileged under specific parliamentary circumstances described in the rule.<sup>8</sup> Such resolutions would include the constitutional right of the House to originate revenue measures.

- **Bereavement Resolutions:** Under House precedents, resolutions expressing the condolences of the House of Representatives over the death of a Representative or of a President or former President, have been treated as privileged.
- **Measures Related to House Organization:** Certain organizational business of the House, such as resolutions traditionally adopted at the beginning of a session notifying the President that the House has assembled, as well as concurrent resolutions providing for a joint session of Congress, have been treated as privileged business.

In the 111<sup>th</sup> Congress, 269 measures, representing 14% of the measures receiving floor action, came before the House on their initial consideration by virtue of their status as “privileged business.” All but six of these 269 measures were non-lawmaking forms of legislation, that is, simple or concurrent resolutions. Of the six bills or joint resolutions receiving action, one was a joint disapproval resolution privileged by statute, and five were Senate bills formally rejected by the House as a question of the privileges of the House.<sup>9</sup> The most common type of measure brought up in the House as “privileged business” during the 111<sup>th</sup> Congress was special orders of business (special rules) reported by the Rules Committee, followed by resolutions assigning Representatives to committee and questions of the privileges of the House.<sup>10</sup>

## **By Special Rule**

A special rule is a simple resolution that regulates the House’s consideration of legislation identified in the resolution. Such resolutions, as noted above, are sometimes called “order of business resolutions” or “special orders.” Special rules enable the House to consider a specified measure and establish the terms for its consideration. For example, how long the legislation will be debated, what, if any amendments may be offered to it, and whether points of order against the measure or any amendments are waived. Under clause 1(m) of House Rule X, the Committee on Rules has jurisdiction over the “order of business” of the House, and it reports such procedural resolutions to the chamber for consideration. In current practice, although a relatively small percentage of legislation comes before the House via special rule, most measures that might be characterized as significant, complicated, or controversial are brought up in this way.

In the 111<sup>th</sup> Congress, 103 measures, or 5% of all legislation receiving House floor action, were initially brought before the chamber under the terms of a special rule reported by the Rules Committee and agreed to by the House. Of these, 97 (94%) were bills or joint resolutions and 6 (6%) were simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 11% of bills and joint resolutions receiving floor action in the 111<sup>th</sup> Congress came up by Special Rule. Ninety-six percent of the measures considered under a special rule during the 111<sup>th</sup> Congress originated in the House, 4% being Senate legislation. As is noted above, every

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<sup>8</sup> *House Manual*, §699.

<sup>9</sup> The practice of the House formally rejecting a measure sent to it by the Senate which violates the House’s Constitutional prerogative to originate revenue measures is colloquially referred to as “blue-slipping.” For more information on this practice, see CRS Report RS21236, *Blue-Slipping: The Origination Clause in the House of Representatives*, by James V. Saturno.

<sup>10</sup> For more information, see CRS Report 98-315, *Privileged Business on the House Floor*, by James V. Saturno.



measure brought before the House using this mechanism was sponsored by a majority party Member.

## Unanimous Consent

In current practice, legislation is sometimes brought before the House of Representatives for consideration by the unanimous consent of its Members. Long-standing policies announced by the Speaker regulate unanimous consent requests for this purpose. Among other things, the Speaker will recognize a Member to propound a unanimous consent request to call up an unreported bill or resolution only if that request has been cleared in advance with both party floor leaders and with the bipartisan leadership of the committee of jurisdiction.<sup>11</sup>

In the 111<sup>th</sup> Congress, 48 measures, or 2% of all legislation identified by LIS as receiving House floor action, were initially considered by unanimous consent. Of these, 21 (44%) were bills or joint resolutions and 27 (56%) were simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 2% of bills and joint resolutions receiving floor action in the 111<sup>th</sup> Congress came up by unanimous consent. Of the measures initially considered by unanimous consent during the 111<sup>th</sup> Congress, 65% originated in the House.

## Gephardt Rule

As adopted in the 111<sup>th</sup> Congress, House Rule XXVIII provided that, upon the final adoption of a congressional budget resolution necessitating a change in the statutory limit on the public debt, a House joint resolution altering that limit will be deemed to have passed the chamber, and be engrossed and transmitted to the Senate for consideration without separate House action. The rule was commonly referred to as the “Gephardt Rule,” after its original sponsor, Representative Richard A. Gephardt (D-MO).<sup>12</sup> The Gephardt Rule was repealed at the beginning of the 112<sup>th</sup> Congress.<sup>13</sup>

During the 111<sup>th</sup> Congress, one House joint resolution was engrossed and deemed to have been passed by virtue of the automatic procedures established by the so-called Gephardt Rule. When only lawmaking forms of legislation are counted, less than 1% (.001%) of bills and joint resolutions receiving floor action in the 111<sup>th</sup> Congress came up under the Gephardt Rule.

## Call of the Private Calendar

Clause 5 of House Rule XV establishes special parliamentary procedures to be used for the consideration of private legislation. Unlike public legislation, which applies to public matters and deals with individuals only by classes, the provisions of private bills apply to “one or several specified persons, corporations, [or] institutions.”<sup>14</sup> When reported from House committee, private bills are placed on a special Private Calendar established by House Rule XIII. The consideration of Private Calendar measures is in order on the first and (if the Speaker of the

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<sup>11</sup> William Holmes Brown and Charles W. Johnson, *House Practice, A Guide to the Rules, Precedents and Procedures of the House* (Washington: GPO, 2003), ch. 54, §2, pp. 882-883.

<sup>12</sup> For more information, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule”*, by Bill Heniff Jr.

<sup>13</sup> H.Res. 5, 112<sup>th</sup> Congress.

<sup>14</sup> Asher C. Hinds, *Hinds’ Precedents of the House of Representatives of the United States* (Washington: GPO, 1917), vol. 4, §3285.

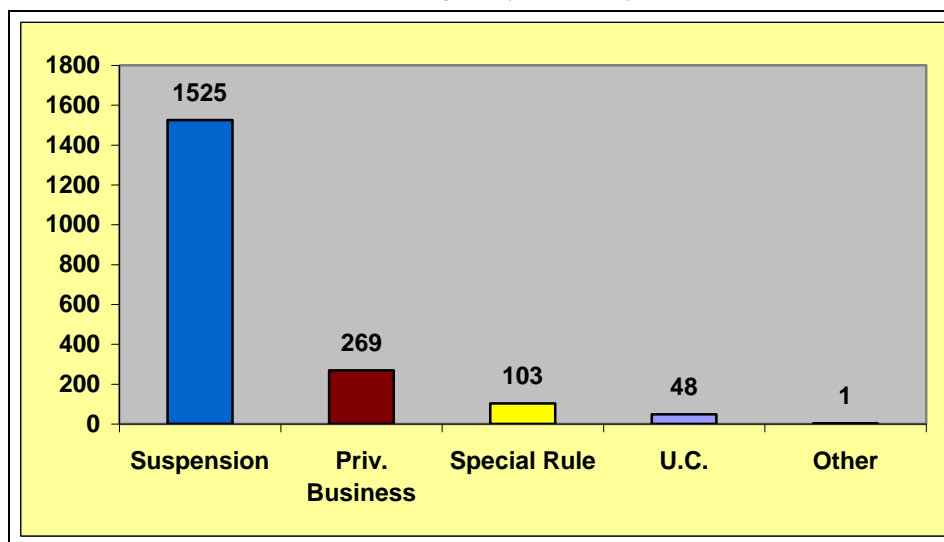
House so chooses) third Tuesday of a month. On those days, the Private Calendar is “called” and each measure on it is automatically brought before the House in order. Private bills are considered under a set of procedures known as the “House *as in* Committee of the Whole,” which is a hybrid of the procedures used in the full House and those used in the Committee of the Whole. Under these, private bills may be debated and amended under the five-minute rule, although in practice, they are almost always passed without debate or record vote.<sup>15</sup>

In the 111<sup>th</sup> Congress, no measures were brought to the floor via the call of the Private Calendar. Two private laws were enacted in the Congress, but the House processed these measures by Suspension of the Rules rather than by using the call of the Private Calendar.

## Other Parliamentary Mechanisms

The House of Representatives has established special parliamentary procedures which might be used to bring legislation to the chamber floor dealing with the business of the District of Columbia, by a discharge petition filed by a numerical majority of the House, and by a procedure known as the Calendar Wednesday procedure.<sup>16</sup> These procedures are rarely used, and no legislation was brought before the House in the 111<sup>th</sup> Congress by any of these parliamentary mechanisms.

**Figure 2. Procedures Used to Bring Measures to the House Floor**  
111<sup>th</sup> Congress (2009-2010)



**Source:** Legislative Information System of the U.S. Congress (LIS).

**Notes:** Chart reflects initial House consideration of all legislation, regardless of legislative form. “Other” category is made up of one measure passed under the “automatic procedures” of House Rule XXVII as adopted in the 111<sup>th</sup> Congress, a rule commonly called the “Gephardt Rule.” Figure represents initial House consideration.

<sup>15</sup> For more information, see CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

<sup>16</sup> For more information on these procedures, see CRS Report 98-315, *Privileged Business on the House Floor*, by James V. Saturno and CRS Report 98-394, *Discharge Procedure in the House*, by Richard S. Beth.

**Table 3.Parliamentary Procedures Used to Bring Measures to the Floor of the U.S. House of Representatives**

111<sup>th</sup> Congress (2009-2010)

<b>Parliamentary Procedure / Percentage of Measures Considered</b>	<b>H.R.</b>	<b>S.</b>	<b>H.J.Res.</b>	<b>S.J.Res.</b>	<b>H.Res.</b>	<b>H.Con.Res.</b>	<b>S.Con.Res.</b>	<b>TOTAL</b>
Suspension of the Rules / 78%	640	106	8	6	665	91	9	<b>1525</b>
Privileged Business ( <b>269</b> Total) / 14%								
Special orders of business (including those tabled)	0	0	0	0	162	0	0	162
Committee assignment resolution	0	0	0	0	31	0	0	31
Question of privileges of the House (including “blue-slipped” Senate bills)	0	5	0	0	26	0	0	31
Providing for adjournment / recess	0	0	0	0	0	17	1	18
Chamber organizational related	0	0	0	0	13	1	1	15
Providing for a joint session or meeting	0	0	0	0	0	3	1	4
Bereavement resolution	0	0	0	0	2	0	0	2
Correcting engrossment or enrollment	0	0	0	0	1	1	0	2
Granting deposition authority to a committee	0	0	0	0	1	0	0	1
Privileged by rule making statute	0	0	1	0	0	0	0	1
Dismissing election contest	0	0	0	0	1	0	0	1
Ethics investigation / discipline	0	0	0	0	1	0	0	1
By Special rule / 5%	91	3	3	0	2	3	1	<b>103</b>
Unanimous consent / 2%	6	10	3	2	18	4	5	<b>48</b>
Gephardt Rule / .001%	0	0	1	0	0	0	0	<b>1</b>
Call of the Private Calendar / 0%	0	0	0	0	0	0	0	<b>0</b>
D.C. Business / Discharge Petition / Calendar Wednesday / 0%	0	0	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>737</b>	<b>124</b>	<b>16</b>	<b>8</b>	<b>923</b>	<b>120</b>	<b>18</b>	<b>1946</b>

**Source:** Congressional Research Service (CRS) analysis of data from the Legislative Information System of the U.S. Congress (LIS).

**Notes:** Table reflects initial House consideration of measures receiving floor action between January 6, 2009 and January 5, 2011. Percentages may not add up to 100% due to rounding

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